

PT 01-56

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**CHURCH OF
THE CROSS,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0024
(99-46-0029)
P.I.N: 10-19-21-301-023**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Ms. Brenda Gorski, Assistant State's Attorney for the County of Kankakee, on behalf of the Kankakee County Board of Review.

SYNOPSIS: This proceeding presents the issue of whether real estate identified by Kankakee County Parcel Index Number 10-19-21-301-023 (hereinafter the "subject property") qualifies for exemption from 1999 real estate taxes as a "parsonage" within the meaning of Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* The underlying controversy arises as follows:

Church of the Cross (hereinafter the "applicant") filed an Application for Real Estate Tax Exemption with the Kankakee County Board of Review (hereinafter the "Board") on July 30, 1999. The Board reviewed the application and initially recommended to the Illinois Department of Revenue (hereinafter the "Department") that the subject property be exempt as of May 27, 1999.

The Department accepted this recommendation by issuing its initial determination herein on January 13, 2000. Said determination found the subject property to be exempt from real estate taxation for that 60% of the 1999 assessment year which transpired on or after May 27, 1999.

On January 18, 2000, the Kankakee County Supervisor of Assessments notified the Department in writing that the Board had rescinded its initial recommendation for exemption. The Board then filed an appeal to the Department's determination and later presented evidence at a formal evidentiary hearing, in which the applicant also participated. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established the admission of Dept. Ex. Nos. 1-A, 1-B and 2.
2. The Department's position in this matter is that the subject property is exempt from real estate taxation for 60% of the 1999 assessment year under 35 ILCS 200/15-40. Dept. Ex. No. 2.
3. The subject property is located at 13281 East Central, St. Anne, IL 60964 and was unimproved when applicant, a Christian church, obtained ownership thereof on December 4, 1998. Dept. Ex. No. 1-A; Applicant Ex. No. 3.
4. Applicant purchased the subject property with the intention of constructing thereon a parsonage for its pastor, Jones Dyson. Applicant Group Ex. No. 2; Applicant Ex. No. 3.

5. The trustee's deed under which applicant obtained title to the subject property states that title to the subject property is being conveyed to the applicant, "Church of the Cross Non-Denominational Bible Centered Church." [sic]. *Id.*
6. Applicant obtained financing for construction pursuant to the terms of a mortgage dated May 27, 1999. Board Group Ex. No. 3. The terms of this mortgage provided in substance that applicant, as grantor, was pledging the subject property and any improvements built thereon as collateral to secure payment of note issued by the lender, National City Bank of Michigan/Illinois [sic], in the amount of \$85,507.00. Board Ex. No. 3.
7. Applicant had completed construction of the parsonage when it filed its Application for Property Tax Exemption with the Board on July 30, 1999. Dept. Ex. No. 1-A.
8. The Parsonage/Convent Questionnaire that applicant's pastor, Jones Dyson (hereinafter "Pastor Dyson"), submitted as part of the Application for Property Tax Exemption states that applicant did not require Pastor Dyson to reside in the parsonage as a condition of his employment. Dept. Ex. No. 1-B.
9. Applicant's governing board passed a resolution requiring its pastor to reside in the parsonage as a condition of his employment on April 24, 2000. Board Ex. No. 1.

CONCLUSIONS OF LAW:

An examination of the record made at hearing establishes that the Department's initial determination in this matter, finding that the subject property qualifies for exemption from real estate taxation for 60% of the 1999 assessment year under 35 ILCS 200/15-40, should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code 35 **ILCS** 200/1-1 *et seq.*, wherein the following are exempted from real estate taxation:

200/15-40. Religious purposes, orphanages, or school and religious purposes

All property used exclusively¹ for religious purposes,² or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons who perform religious related

1. The word "exclusively" when used in Section 200/15-40 and other property tax exemption statutes means the "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

2. As applied to the uses of property, a religious purpose means "a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction." People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies. In order to minimize the harmful effects of such lost revenue costs, exemption statutes must be interpreted in rigorous conformity with the Constitutional limitations thereon. Accordingly, statutes conferring property tax exemptions are to be strictly construed so that all factual inferences, debatable legal questions and other disputed matters are resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987)).

The debatable questions at issue herein center around whether the subject property qualifies for exemption from 1999 real estate taxes as a “parsonage” within the meaning of Section 15-40 of the Property Tax Code. For the following reasons, I conclude it does not.

The statutory requirements for the exemption of parsonages are as follows: first, that the property be owned by a duly qualified religious organization (Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994); and, second, that the religious organization-owner require the minister or other employed clergy to reside in the facility as a condition of the minister’s employment. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App. 3d 431, 444 (2nd Dist. 1987).

Most, if not all, of the testimonial evidence presented at hearing did not directly address these requirements. Rather, this evidence focused on what, if any, credence

should be given to a letter purportedly written to the Department by applicant's self-described "owner," Benjamin Koger.

In this letter, admitted into the record as Applicant Ex. No. 1, Mr. Koger alleges that the subject property should not be exempt because it is personally owned by applicant's pastor, John Dyson and his wife Lisa. I do not find this statement to be credible because it directly contradicts information contained in the trustee's deed (Applicant Ex. No. 3) under which the applicant, Church of the Cross, obtained ownership of the subject property.

This deed, dated December 4, 1998, contains absolutely no mention of Pastor Dyson or his wife. Rather, it plainly and unequivocally states that the applicant, "Church of the Cross, [a] Non-Denominational Bible Centered Church," was in title to the subject property as of December 4, 1998.

Neither applicant nor the Board presented any evidence establishing that applicant had effectuated any changes in the state of title during the tax year currently in question, which is 1999. Indeed, applicant manifested its ownership interest therein by pledging the subject property and any improvements constructed thereon as collateral under terms of the mortgage which it executed on May 27, 1999. (*See*, Board Ex. No. 3). For this and all the above-stated reasons, I conclude that the subject property was owned by applicant, a duly qualified religious organization, throughout the 1999 assessment year. Therefore, I hereby discount any and all statements to the contrary expressed in Mr. Koger's letter of February 10, 2000.

Mr. Koger also made certain allegations concerning lack of exempt use. However, I find it unnecessary to address these allegations because the

Parsonage/Convent Questionnaire, which applicant submitted as part of its initial Application for Property Tax Exemption, contains Pastor Dyson's specific, written admission that he was not required to live in the parsonage as a condition of his employment. (*See*, Dept. Ex. No. 1-B).

Applicant's governing board did pass a resolution which sought to rectify this lack of exempt use. However, it did not pass this resolution until April 24, 2000. Because each tax year constitutes a separate cause of action for exemption purposes (People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4th Dist. 1980)), a resolution passed during the 2000 tax year has no legal effect on the present case, which seeks exemption from 1999 real estate taxes. Accordingly, I conclude that the subject property was not used for the narrow set of purposes necessary to qualify it as a tax exempt "parsonage" within the meaning of Section 15-40 of the Property Tax Code during the 1999 assessment year. Therefore, the Department's initial determination in this matter, finding that said property did qualify for the exemption articulated in Section 15-40 as of May 27, 1999, should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Kankakee County Parcel Index Number 10-19-21-301-023 not be exempt from 1999 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

September 17, 2001

Date

Alan I. Marcus
Administrative Law Judge